

9

DURABLE POWER OF ATTORNEY

I, John A. Smith, of 7222 Missouri Avenue, Hammond, Lake County, Indiana, hereby create a Durable Power of Attorney, "Power", and appoint the following persons as my Attorney In Fact, in the order in which their names appear, with power to act for me according to Indiana Code (I.C.) 30-5-5, as it now exists or as it may be amended in the future:

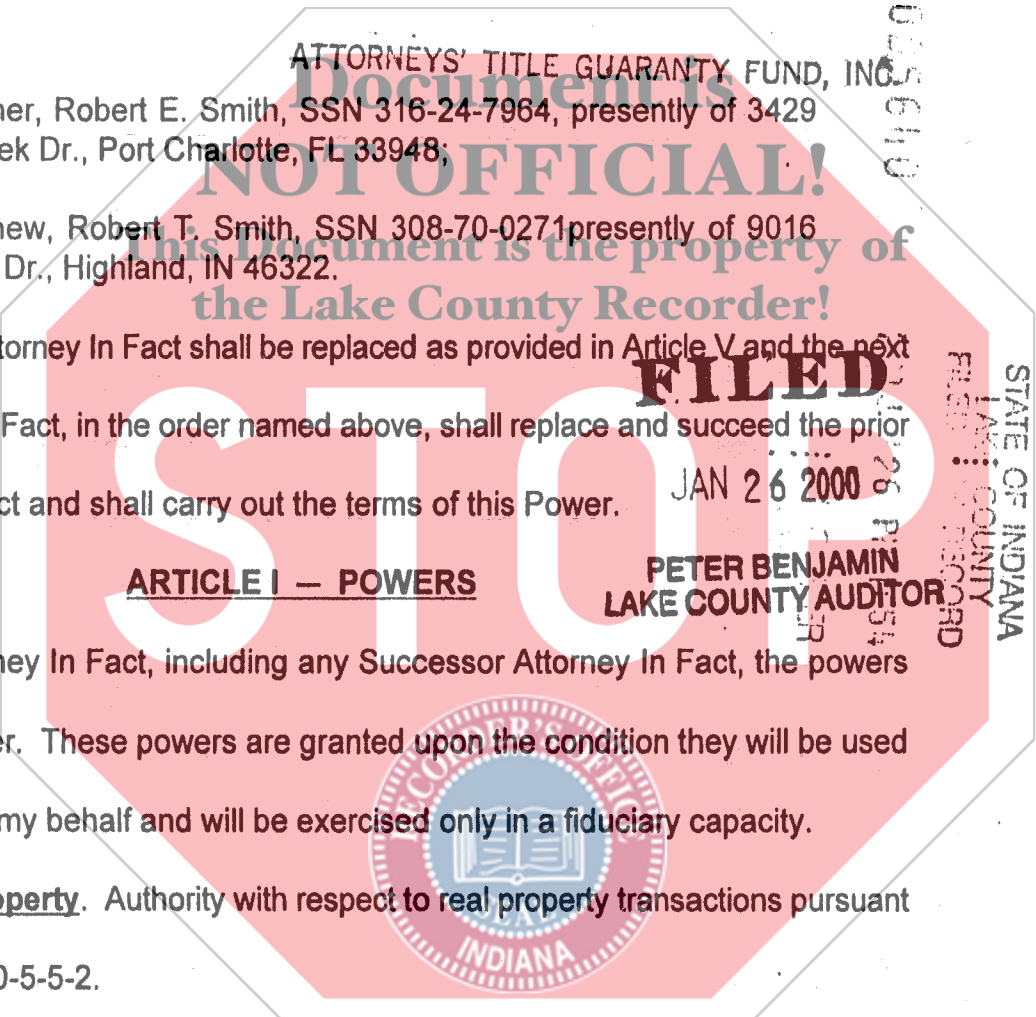
1. My brother, Robert E. Smith, SSN 316-24-7964, presently of 3429 Rockcreek Dr., Port Charlotte, FL 33948;
2. My nephew, Robert T. Smith, SSN 308-70-0271 presently of 9016 Orchard Dr., Highland, IN 46322.

A Successor Attorney In Fact shall be replaced as provided in Article V and the next Successor Attorney In Fact, in the order named above, shall replace and succeed the prior named Attorney In Fact and shall carry out the terms of this Power.

ARTICLE I — POWERS

I give my Attorney In Fact, including any Successor Attorney In Fact, the powers contained in this Power. These powers are granted upon the condition they will be used for my benefit and on my behalf and will be exercised only in a fiduciary capacity.

- (A) **Real Property.** Authority with respect to real property transactions pursuant to I.C. 30-5-5-2.
- (B) **Tangible Personal Property.** Authority with respect to tangible personal property transactions pursuant to I.C. 30-5-5-3;
- (C) **Bond, Share, and Commodity.** Authority with respect to bond, share, and commodity transactions pursuant to I.C. 30-5-5-4. This authority includes the power to purchase United States Government obligations which are



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2000 025610

MAIL TO: JILL - PRO OPTION
33 N. DEARBORN 2ND FLOOR
CHICAGO, IL 60652-3100

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redeemable at par in payment of estate taxes imposed by the United States Government;

- (D) **Banking**. Authority with respect to banking transactions pursuant to I.C. 30-5-5-5, including but not limited to, the authority to have access to any and all safety deposit boxes in my name, and to open, inspect, inventory, place items in or remove items from and close any safety deposit boxes;
- (E) **Business**. Authority with respect to business operating transactions pursuant to I.C. 30-5-5-6;
- (F) **Insurance**. Authority with respect to insurance transactions pursuant to I.C. 30-5-5-7 provided that references in I.C. 30-5-5-7(a) (2) and (3) to "Section 8" are changed to "Section 9". This authority shall include full power to apply for and otherwise deal with Medicare and Medicaid benefits;
- (G) **Beneficiary**. Authority with respect to beneficiary transactions pursuant to I.C. 30-5-5-8;
- (H) **Gifts**. Authority with respect to gift transactions pursuant to I.C. 30-5-5-9;
- (I) **Fiduciary**. Authority with respect to fiduciary transactions pursuant to I.C. 30-5-5-10;
- (J) **Claims and Litigation**. Authority with respect to claims and litigation pursuant to I.C. 30-5-5-11;
- (K) **Family Maintenance**. Authority with respect to family maintenance pursuant to I.C. 30-5-5-12;
- (L) **Military Service**. Authority with respect to benefits from military service pursuant to I.C. 30-5-5-13;

- (M) **Records, Reports, and Statements**. Authority with respect to record, report, and statements pursuant to I.C. 30-5-5-14, including, but not limited to, the power to execute on my behalf any specific power of attorney required by any taxing authority to allow my Attorney In Fact to act on my behalf before that taxing authority on any return or issue;
- (N) **Estate Transactions**. Authority with respect to estate transactions pursuant to I.C. 30-5-5-15;
- (O) **Delegating Authority**. Authority with respect to delegating authority in writing to one (1) or more persons as to any or all powers given to my Attorney In Fact by this Power, pursuant to I.C. 30-5-5-18;
- (P) **All Other Matters**. Authority with respect to all other possible matters and affairs affecting property owned by me pursuant to I.C. 30-5-5-19.

In the exercise of any powers described in this Power, my Attorney In Fact shall have full power and authority to do and perform every act and thing necessary, proper or convenient to be done as fully to all intents and purposes as I might or could do for myself.

Notwithstanding the foregoing, in no event shall my Attorney In Fact have any of the following power:

- (1) To benefit himself, herself, or any other person in any way that could result in any part of my property being included in my Attorney In Fact's gross estate for federal estate tax purposes, or cause any part of my property to be deemed to be the subject of a taxable gift made personally by my Attorney In Fact;
- (2) To make any payment or application which discharges any legal

obligation of my Attorney In Fact;

- (3) To possess the power to exercise any incident of ownership with respect to any policy I own insuring the life of my Attorney In Fact;
- (4) To have any power which causes the holder of the power to be treated as the owner of any interest in my property and which causes that property to be taxed as owned by the Attorney In Fact.

I ratify and confirm all that my Attorney In Fact does, or causes to be done, under the authority granted in this Power. All documents signed, endorsed, drawn, accepted, made, executed, or delivered by my Attorney In Fact shall bind me, my estate, my heirs, successors and assigns.

ARTICLE II – EFFECTIVE DATE

This Power of Attorney shall not be affected by the lapse of time and shall only become effective immediately, and shall not be affected by my subsequent disability or incapacity. If proceedings are ever begun for the appointment of a guardian, conservator, or like representative for my person or estate, it is my preference that whoever may then be serving or eligible to serve as my Attorney In Fact under this Power of Attorney be appointed to that office.

ARTICLE III – RELIANCE BY THIRD PARTIES

To induce third parties to act in accordance with the powers granted to my Attorney In Fact in this Power, I represent and warrant that:

- (A) If this document is revoked or amended for any reason, I, my estate, my

heirs, successors, and assigns will hold any third party harmless from any loss suffered, or liability incurred, by the third party in acting in accordance with this document before the third party's receipt of written notice of termination or amendment;

(B) The powers conferred on my Attorney In Fact may be exercised alone; my Attorney In Fact's signature or actions under the authority granted in this Power may be accepted by third parties as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf;

(c) No person who acts in reliance upon any representation of my Attorney In Fact as to the scope of my Attorney In Fact's authority granted under this document shall incur any liability to me, my estate, my heirs, successors, or assigns for permitting my Attorney In Fact to exercise any such power, nor shall any person who deals with my Attorney In Fact be responsible to determine or ensure the proper application of funds or property.

ARTICLE IV – TERMINATION

I revoke all prior general Powers of Attorney that I may have executed. I retain the right to revoke or amend this Power and to substitute other Attorney's In Fact in place of any of those named in this Power. This Power shall continue in full force and effect until I, personally, have signed a written document specifically revoking this Power. Amendments to this Power shall be made in writing by me personally. Any revocation or amendment of this Power must be recorded in the same County or Counties as the

original, if the original is recorded.

ARTICLE V – AUTHORITY OF SUCCESSOR ATTORNEY IN FACT

- (A) Any Attorney In Fact named in this Power shall be considered to fail or cease to, serve, when:
- (1) the Attorney In Fact dies, resigns, is adjudged incapacitated by a Court, cannot be located upon reasonable inquiry, or if at one time was the principal's spouse and legally is no longer the principal's spouse; or
 - (2) a physician familiar with the condition of the current Attorney In Fact certifies in writing to the immediate Successor Attorney In Fact, that the current Attorney In Fact is unable to transact a significant part of the business required under this Power of Attorney;
- (B) The death of any Attorney In Fact named in this Power may be established by the affidavit of any person named herein as an Attorney In Fact; however, this is not intended to be the exclusive means for establishing the death of any Attorney In Fact named in this Power;
- (C) The resignation of any Attorney In Fact hereunder may be established by a written document bearing the Attorney In Fact's notarized signature to that effect; however, this is not intended to be the exclusive means for establishing the resignation of any Attorney In Fact named in this Power;
- (D) The inability to locate any Attorney In Fact upon reasonable inquiry may be established by the affidavit of any person named as an Attorney In Fact;

however, this is not intended to be the exclusive means for establishing the inability to locate, upon reasonable inquiry, any Attorney In Fact named in this Power;

- (E) In the event any individual named in this Power fails to, or ceases to, serve as my Attorney In Fact, the individual shall have no further power under this instrument, except for any power as may be delegated to the individual by my then acting Attorney In Fact. This shall be the case even if the individual shall reappear after establishing that he or she could not be located upon reasonable inquiry, or if he or she is subsequently able to transact business.

ARTICLE VI – GUARDIANSHIP

In the event a proceeding is brought to establish a guardianship for me, I appoint the individual then acting, or eligible to act, as my Attorney In Fact under this Power, to serve as guardian, and to have responsibility for the care, custody, and management, and supervision of my property and physical person.

ARTICLE VII – GENERAL PROVISION

- (A) Persons dealing with my Attorney In Fact may rely on a photostatic copy of this Power;
- (B) If any of the provisions of this Power are found to be invalid for any reason, this invalidity shall not affect any of the other provisions of this Power, and all invalid provisions shall be wholly disregarded;
- (C) All questions pertaining to validity, interpretation, and administration of this

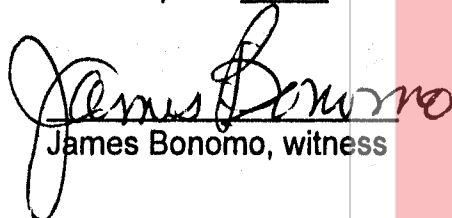
Power shall be determined in accordance with the laws of Indiana;


(D) My Attorney In Fact shall not be liable to me or any of my successors in interest for any action taken or not taken in good faith, but shall be liable for any wilful misconduct or gross negligence;

(E) I have received from my Attorney, a copy of those sections of Indiana Code 30-5-5 which are incorporated by reference in Article I of this Power. I have reviewed these powers and am incorporating by reference herein those which comply with my wishes.

This Durable Power of Attorney is executed by me on November 11, 1999, before the person named below, who has duly witnessed my execution of this Durable Power of Attorney in four (4) counter parts, each of which shall be considered an original document.

Counterpart # 1 of four.


James Bonomo, witness

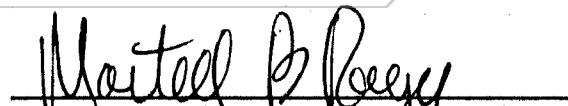

John A. Smith
Social Security No. 304-32-8045

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

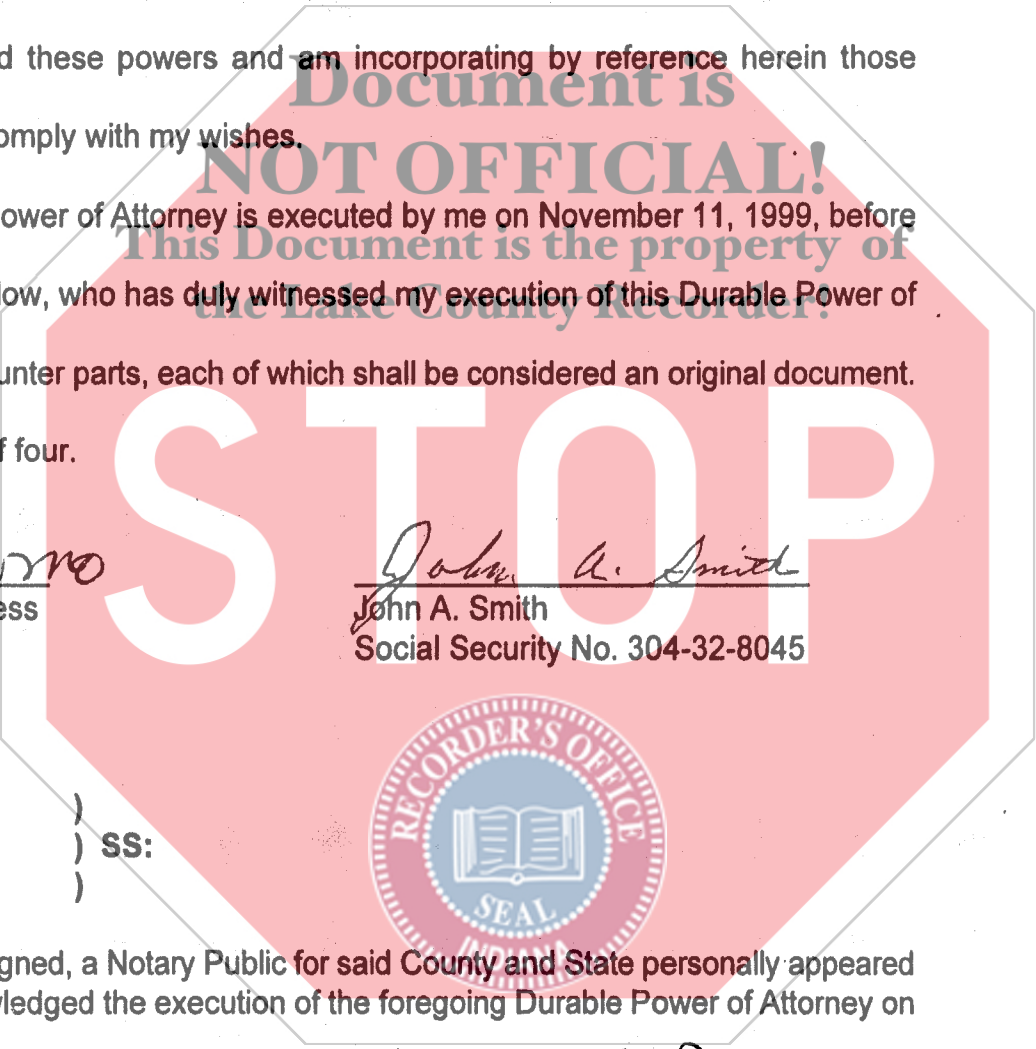


Before me the undersigned, a Notary Public for said County and State personally appeared John A. Smith acknowledged the execution of the foregoing Durable Power of Attorney on November 11, 1999.

My Commission Expires:
5/9/07


Martell B. Royer, Notary Public
Resident of Lake County, Indiana

Instrument prepared by: Martell B. Royer, Attorney at Law, 6604 Kennedy Avenue, Hammond, IN 46323.
Mail to: Robert Smith, 9016 Orchard, Highland IN 46322



**Document is
NOT OFFICIAL!**

**This Document is the property of
the Lake County Recorder!**

STOP

Lot 12 and the East 6 feet of Lot 11, Subdivision of Lots 71 to 80 inclusive, Hammond Realty Company Addition, in the City of Hammond, as shown in Plat Book 17, Page 1, in Lake County, Indiana

Commonly Known As: 1010 May Street Hammond, Indiana

Tax Key No. 26-34-25-13

